

10/072,149  
Amendment D and RCE  
Attorney Docket No. D-2978

REMARKS

A final office action, which included a final rejection of all of the remaining claims, was mailed on January 30, 2004 in the hereinabove referenced patent application.

The undersigned attorney of record contacted the Examiner by telephone and the Examiner agreed to grant an after final telephonic interview after the Examiner has had a chance to consider applicant's proposed amendment to the claims.

On April 09, 2004 an interview was held between the undersigned attorney of record, the Examiner and the Examiner's supervisor. The Examiner stated that the amendment proposed by the applicant raised new issues and therefore refused to enter the amendment. The Examiner's interview summary was mailed on April 20, 2004.

Accordingly, this Request for Continued Examination and Amendment is being filed.

Applicant submits that the invention defined in the presently proposed amended claims, and the new claims, are not disclosed, taught or even suggested by any of the prior art of reference. Amended independent claim 1 defines the erosion control system of the present invention as comprising: a flexible erosion control matting including no powdered or granular material. The matting includes a single core layer comprising randomly oriented fibers, and forming a substantially flat upper surface and a substantially flat lower surface, an externally disposed biaxial geogrid fastened to and located on the substantially flat upper surface of the single core layer, and an externally disposed grid-like netting

10/072,149  
Amendment D and RCE  
Attorney Docket No. D-2978

material fastened to and located on the substantially flat lower surface of the single core layer. Further, the claim defines the flexible matting as being structured to resist trapping of sediment within the matting and to allow flowing particulate matter to pass freely over the matting during a hydraulic event in order to control erosion of a substantially unvegetated sloped surface when the matting is placed on said sloped surface.

New independent claim 28 has been added to define an embodiment of the invention for which patent protection is sought. No new matter is being presented. This embodiment has been disclosed throughout the patent application as filed, including the drawings. New claim 28 defines an embodiment of the erosion control system comprising a flexible erosion control matting including no powdered or granular water absorbent material, and the flexible erosion control matting further including a single core layer comprising randomly oriented fibers selected from the group consisting of coconut fibers, wood fibers, plant straw, synthetic fibers and combinations thereof, the single core layer forming a substantially flat upper surface and a substantially flat lower surface; a relatively heavy weight biaxial geogrid having no substantial three dimension features, the biaxial geogrid fastened to and conforming to the substantially flat upper surface of the single core layer; and a relatively light weight grid-like netting material fastened to the substantially flat lower surface of the single core layer.

Applicant submits that the present invention as defined in the new claims and claims as amended is not disclosed, taught or suggested by White or any of the references uncovered by the Examiner. Applicant resubmits all earlier comments and arguments submitted in response to the Examiner's rejections based on such

10/072,149  
Amendment D and RCE  
Attorney Docket No. D-2978

references.

With regard to the newly cited White reference, applicant submits that the White reference does not disclose, teach or suggest the erosion control system defined in the claims as amended or the new claims. For example, among other reasons, White does not disclose, teach or suggest an erosion control matting including no powdered or granular material. White's article necessarily includes powdered or granular material. Moreover, the elements of the present invention in the proposed amendment do not achieve the same function as the White water barrier article.

Unlike the erosion control system defined in the present claims, White discloses a fiber/clay matting used as a water barrier designed to waterproof a surface, for example for preventing water from reaching a surface in a toxic waste areas. A powdered or granular water absorbent material entrapped into the fabric is an essential feature of the White invention.

Applicant submits that the present invention as defined in the present claims is therefore distinct from White both structurally and functionally. Applicant submits that the present invention as defined in the present claims, is not anticipated by or obvious in light of White under 35 U.S.C. 102(b) and 35 U.S.C. 103(a).

In view of the above and in view of arguments presented in applicant's earlier responses to earlier office actions, applicant submits that the claims as currently amended define patentable subject matter.

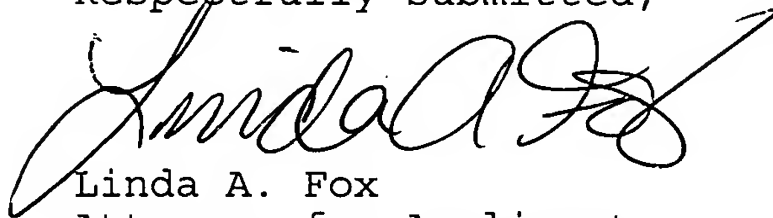
Applicant submits that the application is now in condition for allowance and therefore requests the Examiner pass the application

10/072,149  
Amendment D and RCE  
Attorney Docket No. D-2978

to issuance at an early date.

Should any matters remain unresolved, the Examiner is requested to call (collect) applicant's attorney at the telephone number given below.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Linda A. Fox", with a large, sweeping flourish extending from the end of the signature.

Linda A. Fox  
Attorney for Applicant  
Reg. No. 38,883  
4 Venture, Suite 300  
Irvine, CA 92618  
(949) 450-1750  
Facsimile (949) 450-1764